

AMENDED IN ASSEMBLY MAY 7, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 112

Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Rendon, Stone, and Ting)

January 10, 2013

An act to amend Sections 12306.1 and 12309 of, to add Sections 12301.01, 12301.02, 12301.03, 12301.04, and 12301.05 to, and to repeal Sections 12301.07 and 12309.2 of, the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 112, as amended, Committee on Budget. In-home supportive services.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services to permit them to remain in their own homes and avoid institutionalization. Existing law requires the State Department of Social Services to implement, under specified circumstances, a 20% reduction in authorized hours of service to each IHSS recipient, beginning January 1, 2012, except as specified.

This bill would delete those provisions.

Existing law requires the department, until July 1, 2013, to implement a 3.6% reduction in authorized hours of service to each IHSS recipient, as specified.

This bill would require the department, from July 1, 2013, to June 30, 2014, inclusive, to implement an 8% reduction in authorized hours of service to each IHSS recipient, as specified. The bill would authorize a county to administratively deny a request for reassessment based only on that reduction. The bill would require a specified notice to be mailed to the recipient at least 10 days before the reduction goes into effect. The bill would also require the department, beginning July 1, 2014, to implement a 7% reduction in authorized hours of service to each IHSS recipient, as specified. The bill would require a specified notice to be mailed to the recipient at least 20 days before the reduction goes into effect.

This bill would state the intent of the Legislature to authorize an assessment on home care services, including, but not limited to, home health care and in-home supportive services. This bill would require the Director of Finance, within 30 days after receipt of specified certification from the State Department of Health Care Services, to, among other things, estimate the total amount of additional funding that would be derived from that assessment for the next fiscal year and calculate, as a percentage, the amount by which the 7% reduction in authorized hours of service for each IHSS recipient is offset by General Fund savings from that assessment. The bill would require the department to perform these activities for the fiscal year that the certification is received and the following fiscal year, and on or before May 14, prior to the 3rd fiscal year after the certification is received. ~~This~~ The bill would require the 7% reduction in authorized hours of services to be mitigated by the percentage offset determined by the Director of Finance, as specified. The bill would provide for these provisions to become operative only upon certification by the State Department of Health Care Services that any necessary federal approvals have been obtained.

This bill would create the In-Home Supportive Services Reinvestment Fund, ~~a continuously appropriated fund~~, to receive moneys to the extent that the assessment is implemented retroactively, and use those moneys to provide goods or services for one-time direct reinvestments benefiting IHSS recipients, as prescribed. ~~This bill would require the Legislature to approve the initial allocation of moneys from the fund in the annual Budget Act or other legislation. This bill would authorize, under certain~~

~~circumstances, the amount available for expenditure for this purpose if specified notice is provided to the Legislature. The bill would require the Director of Finance to consult with specified plaintiffs to develop a plan to reinvest those funds, and require that plan to be submitted to the appropriate policy and fiscal committees of the Legislature. The bill would require the Director of Finance to provide specified notice to the Joint Legislative Budget Committee at least 30 days prior to allocating any of those funds, as prescribed. The bill would, subject to specified conditions, continuously appropriate the moneys in the fund to the department for these purposes.~~

Existing law authorizes a county board of supervisors to elect to contract with a nonprofit consortium to provide for the delivery of IHSS or to establish a public authority to provide for the delivery of IHSS. Under existing law, the state is required to pay 65%, and the county 35%, of the nonfederal share of wage and benefit increases negotiated by a public authority or nonprofit consortium, as specified. Existing law, operative July 1, 2009, requires the state to participate in those wage and benefit increases in a total cost of wages up to \$9.50 per hour and in individual health benefits up to \$0.60 per hour. Existing law provides that those provisions establishing those rates of participation shall not be implemented until July 1, 2012, and shall only be implemented if specified conditions are met.

This bill would delete those latter provisions.

Under existing law, the department is required to develop a uniform needs assessment tool to assure that IHSS are delivered in all counties in a uniform manner. Existing law requires the uniform needs assessment tool to evaluate the recipient's functioning in activities of daily living and instrumental activities of daily living and quantifies the recipient's functioning ranks using a general 5-point scale for ranking each function, as specified. Under existing law, beginning September 1, 2009, only individuals who are ranked at a 4 or 5 in the activity of daily living relating to a domestic or related service are eligible for that service, except as specified.

This bill would delete those latter provisions.

Under existing law, beginning September 1, 2009, eligibility for IHSS shall also include functional index scores, which are assigned to a recipient as a weighted average based on his or her individual functional index rankings. Existing law, except as specified, provides that individuals with certain functional index scores are not eligible for IHSS.

This bill would delete those provisions.

The bill would appropriate \$1,000 from the General Fund to the State Department of Social Services for its administrative costs during the 2013–14 fiscal year. *The bill would require the State Department of Social Services and the State Department of Health Care Services to adopt emergency regulations to implement the bill's provisions, as specified.*

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12301.01 is added to the Welfare and
2 Institutions Code, to read:

3 12301.01. (a) (1) Notwithstanding any other law, except as
4 provided in subdivision (d), the department shall implement an
5 8-percent reduction in hours of service to each recipient of services
6 under this article, which shall be applied to the recipient's hours
7 as authorized pursuant to the most recent assessment. This
8 reduction shall become effective July 1, 2013. This reduction shall
9 be effective for 12 months. The reduction required by this section
10 shall not preclude any reassessment to which a recipient would
11 otherwise be entitled. However, hours authorized pursuant to a
12 reassessment shall be subject to the 8-percent reduction required
13 by this section.

14 (2) A request for reassessment based only on the reduction
15 required in paragraph (1) may be administratively denied by the
16 county.

17 (3) A recipient of services under this article may direct the
18 manner in which the reduction of hours is applied to the recipient's
19 previously authorized services.

20 (4) For those individuals who have a documented unmet need,
21 excluding protective supervision because of the limitations on
22 authorized hours under Section 12303.4, the reduction shall be
23 taken first from the documented unmet need.

24 (b) The reduction in hours of service pursuant to paragraph (1)
25 of subdivision (a) shall cease to be implemented 12 months after
26 the reduction takes effect.

(c) The notice of action informing the recipient of the reduction pursuant to subdivision (a) shall be mailed at least 10 days prior to the reduction going into effect. The notice of action shall be understandable to the recipient and translated into all languages spoken by a substantial number of the public served by the In-Home Supportive Services Program, in accordance with Section 7295.2 of the Government Code. The notice shall not contain any recipient financial or confidential identifying information other than the recipient's name, address, and Case Management Information and Payroll System (CMIPS) client identification number, and shall include, but not be limited to, all of the following information:

(1) The aggregate number of authorized hours before the reduction pursuant to subdivision (a) and the aggregate number of authorized hours after the reduction.

(2) That the recipient may direct the manner in which the reduction of authorized hours is applied to the recipient's previously authorized services.

(3) ~~A~~ That a county shall assess a recipient's need for supportive services any time that the recipient notifies the county of a need to adjust the supportive services hours authorized, or when there are other indications or expectations of a change in circumstances affecting the recipient's need for supportive services. Counties shall not require recipients to submit a medical certification form or a doctor's note to show evidence of a change in the recipient's circumstances.

(d) A recipient shall have all appeal rights otherwise provided for under Chapter 7 (commencing with Section 10950) of Part 2.

SEC. 2. Section 12301.02 is added to the Welfare and Institutions Code, to read:

12301.02. (a) (1) Notwithstanding any other law, except as provided in subdivision (c), the department shall implement a 7-percent reduction in hours of service to each recipient of services under this article, which shall be applied to the recipient's hours as authorized pursuant to the most recent assessment. This reduction shall become effective 12 months after the implementation of the reduction set forth in Section 12301.01. The reduction required by this section shall not preclude any reassessment to which a recipient would otherwise be entitled.

1 However, hours authorized pursuant to a reassessment shall be
2 subject to the 7-percent reduction required by this section.

3 (2) A request for reassessment based only on the reduction
4 required in paragraph (1) may be administratively denied by the
5 county.

6 (3) A recipient of services under this article may direct the
7 manner in which the reduction of hours is applied to the recipient's
8 previously authorized services.

9 (4) For those individuals who have a documented unmet need,
10 excluding protective supervision because of the limitations on
11 authorized hours under Section 12303.4, the reduction shall be
12 taken first from the documented unmet need.

13 (b) The notice of action informing the recipient of the reduction
14 pursuant to subdivision (a) shall be mailed at least 20 days prior
15 to the reduction going into effect. The notice of action shall be
16 understandable to the recipient and translated into all languages
17 spoken by a substantial number of the public served by the
18 In-Home Supportive Services Program, in accordance with Section
19 7295.2 of the Government Code. The notice shall not contain any
20 recipient financial or confidential identifying information other
21 than the recipient's name, address, and Case Management
22 Information and Payroll System (CMIPS) client identification
23 number, and shall include, but not be limited to, all of the following
24 information:

25 (1) The aggregate number of authorized hours before the
26 reduction pursuant to subdivision (a) and the aggregate number of
27 authorized hours after the reduction.

28 (2) That the recipient may direct the manner in which the
29 reduction of authorized hours is applied to the recipient's
30 previously authorized services.

31 (3) A county shall assess a recipient's need for supportive
32 services any time that the recipient notifies the county of a need
33 to adjust the supportive services hours authorized, or when there
34 are other indications or expectations of a change in circumstances
35 affecting the recipient's need for supportive services. Counties
36 shall not require recipients to submit a medical certification form
37 or a doctor's note to show evidence of a change in the recipient's
38 circumstances.

39 (c) A recipient shall have all appeal rights otherwise provided
40 for under Chapter 7 (commencing with Section 10950) of Part 2.

(d) The reduction specified in paragraph (1) of subdivision (a) shall be ongoing and may be adjusted pursuant to Section 12301.03.

SEC. 3. Section 12301.03 is added to the Welfare and Institutions Code, to read:

12301.03. (a) It is the intent of this section to offset the reductions described in Section 12301.02 to the extent that an assessment as described in Section 12301.05 provides General Fund savings. This section shall become operative only upon certification by the State Department of Health Care Services that any necessary federal approvals to implement the assessment referenced in Section 12301.05 have been obtained. This certification shall be provided promptly to the Joint Legislative Budget Committee and the Department of Finance.

(b) Within 30 days after receipt of the certification described in subdivision (a), the Director of Finance shall perform the obligations described in this subdivision for the fiscal year in which the certification is received and for the following fiscal year. Specifically, the Director of Finance shall do the following:

(1) Estimate the total amount of additional funding, less refunds, that will be derived from the assessment for the next fiscal year.

(2) Estimate the amount of the total revenues, if any, that are attributable to any permitted retroactive implementation of the assessment.

(3) Estimate the amount of the total General Fund savings generated by the assessment revenues that remain after taking into account reductions such as the revenues attributable to any retroactive application of the assessment that will be allocated pursuant to Section 12301.04, and any General Fund costs associated with establishment and administration of the assessment. The General Fund costs shall be estimated following consultation with the appropriate budget subcommittees of the Legislature.

(4) Calculate, as a percentage, the amount by which the reduction described in Section 12301.02 is offset by General Fund savings. In making this calculation, the Director of Finance shall estimate the amount of the reduction that may be partially or completely offset. If the estimated General Fund savings from the assessment are less than the amount required to fully offset the reduction pursuant to Section 12301.02, then the percentage offset shall be proportionate to the level of General Fund savings. At no

1 point may the reduction pursuant to Section 12301.02 become
2 negative or go below zero.

3 (5) Notify the Joint Legislative Budget Committee of the
4 determinations made in paragraphs (1) to (4), inclusive.

5 (c) On or before May 14, prior to the third fiscal year after the
6 certification described in subdivision (a) is received, the Director
7 of Finance shall perform the activities described in paragraphs (1)
8 to (5), inclusive, of subdivision (b).

9 (d) Within 10 days of the effective date of any federal change
10 or action that prevents or reduces the amount of General Fund
11 savings received from the assessment, the Director of Health Care
12 Services shall provide a notification to the Joint Legislative Budget
13 Committee and the Director of Finance of that change. Within 30
14 days of the receipt of this notification, the Director of Finance shall
15 perform the activities described in paragraphs (1) to (5), inclusive,
16 of subdivision (b).

17 (e) Notwithstanding any provision of Section 12301.02, the
18 reduction of services required by Section 12301.02 shall be
19 mitigated by the percentage offset determined by the Director of
20 Finance in paragraph (4) of subdivision (b).

21 (f) (1) Any change in the percentage reduction of services as
22 provided in Section 12301.02 shall occur on the first day of the
23 first full month occurring 30 days after the determination provided
24 for in subdivision (b) is made by the Director of Finance.

25 (2) Any change in the percentage reduction of services as
26 provided in Section 12301.02 due to a determination of the Director
27 of Finance required by subdivision (c) shall occur on July 1 of the
28 fiscal year immediately following the determination.

29 (3) If a change in the percentage reduction of services as
30 provided in Section 12301.02 is triggered based on a determination
31 of the Director of Finance required by subdivision (d), that change
32 in hours of service shall occur on July 1 after the notification
33 referenced in subdivision (d) from the Director of Health Care
34 Services is received, if the notification is received between the
35 preceding September 30 and January 2. If the notification is
36 received on any other date, then a change in hours shall occur on
37 the first of the month that is nine months after the notification is
38 received.

(g) In preparation of every Governor's Budget and for every May Revision, the Director of Finance shall perform the obligation described in paragraphs (1) to (3), inclusive, of subdivision (b).

~~SEC. 4. Section 12301.04 is added to the Welfare and Institutions Code, to read:~~

~~12301.04. (a) There is hereby created in the State Treasury an In-Home Supportive Services Reinvestment Fund, which shall receive moneys to the extent that an assessment described in Section 12301.05 is implemented retroactively.~~

~~(b) The fund shall be used to provide goods or services for one-time direct reinvestments benefiting IHSS recipients.~~

~~(c) The fund shall be used in a manner that does not create ongoing General Fund obligations.~~

~~(d) Pursuant to Section 12301.03, the Director of Finance shall estimate the amount of retroactive fee due to the fund. In each fiscal year for which there are estimated retroactive revenues, the Director of Finance shall provide the State Controller a schedule of what portion of the fee shall be deposited in the fund.~~

~~(e) Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated to the State Department of Social Services to be reinvested, following consultation with plaintiffs in the lawsuits identified below, for the benefit of IHSS recipients in compliance with the requirements in this section and those in the settlement agreement pertaining to Oster v. Lightbourne, N.D. Cal., Case No. CV 09-04668 CW, U.S. Court of Appeals for the Ninth Circuit, Case No. 12-15366, and Dominguez v. Brown, N.D. Cal., Case No. CV 09-02306 CW, U.S. Court of Appeals for the Ninth Circuit, Case No. 09-16359. At least 30 days prior to allocating any funds pursuant to this section, the State Department of Social Services shall provide an expenditure plan to the Joint Legislative Budget Committee.~~

~~(f) Notwithstanding subdivision (e), the Legislature shall, prior to expenditure, approve the initial allocation of moneys from the fund in the annual Budget Act or other legislation.~~

~~(g) If the Legislature does not make the initial allocation of moneys from the fund pursuant to subdivision (f) during the regular annual budget process, the amount available for expenditure for the purposes of this section may be authorized pursuant to Section 28 of the Budget Act of 2012 (Chapter 21 of the Statutes of 2012); or similar authority granted in future Budget Acts, if notification~~

1 is provided to the Legislature pursuant to that section prior to the
2 initial allocation. Moneys from the fund shall be treated as nonstate
3 funds for the purposes of Section 28 of the Budget Act of 2012
4 (Chapter 21 of the Statutes of 2012), or similar authority granted
5 in future Budget Acts.

6 SEC. 4. Section 12301.04 is added to the Welfare and
7 Institutions Code, to read:

8 12301.04. (a) There is hereby created in the State Treasury
9 an In-Home Supportive Services Reinvestment Fund, which shall
10 receive moneys to the extent that an assessment described in
11 Section 12301.05 is implemented retroactively.

12 (b) The fund shall be used to provide goods or services for
13 one-time direct reinvestments benefiting IHSS recipients.

14 (c) The fund shall be used in a manner that does not create
15 ongoing General Fund obligations.

16 (d) Pursuant to Section 12301.03, the Director of Finance shall
17 estimate the amount of retroactive assessment due to the fund. In
18 each fiscal year for which there are estimated retroactive revenues,
19 the Director of Finance shall provide the Controller a schedule
20 of what portion of the assessment shall be deposited in the fund.

21 (e) The resources in the fund shall be reinvested for the benefit
22 of IHSS recipients, in compliance with the requirements in this
23 section and those in the settlement agreement pertaining to *Oster*
24 *v. Lightbourne*, N.D. Cal., Case No. CV 09-04668 CW, U.S. Court
25 of Appeals for the Ninth Circuit, Case No. 12-15366, and
26 *Dominguez v. Brown*, N.D. Cal., Case No. CV 09-02306 CW, U.S.
27 Court of Appeals for the Ninth Circuit, Case No. 09-16359.

28 (f) The Director of Finance shall consult with plaintiffs in the
29 lawsuits identified in subdivision (e) in order to develop a plan to
30 reinvest the funds for the benefit of IHSS recipients. After the plan
31 is developed and prior to the allocation of any funds, it shall be
32 submitted to the appropriate policy and fiscal committees of the
33 Legislature.

34 (1) If notice of federal approval of retroactive implementation
35 of the assessment is received by the Director of Finance between
36 January 1 and May 10 of any year, and the plan anticipates any
37 expenditure of the funds before June 30 of that year, the Director
38 of Finance shall notify the Joint Legislative Budget Committee at
39 least 30 days prior to allocating any of those funds, for a purpose

1 *authorized by this section, if the allocation is proposed to be used*
2 *in the current fiscal year.*

3 *(2) (A) If notice of federal approval of retroactive*
4 *implementation of the assessment is received by the Director of*
5 *Finance between January 1 and May 10 of any year, and the plan*
6 *anticipates any expenditure of the funds after June 30 of that year,*
7 *for a purpose authorized by this section, the Director of Finance*
8 *shall seek legislative approval of those budget year expenditures*
9 *through the annual Budget Act or in other legislation.*

10 *(B) Notwithstanding subparagraph (A), if the Legislature does*
11 *not allocate moneys from the fund pursuant to subparagraph (A)*
12 *in the annual Budget Act or in other legislation, the Director of*
13 *Finance shall, on or after September 15, notify the Joint Legislative*
14 *Budget Committee at least 30 days prior to allocating any of those*
15 *funds, for a purpose authorized by this section, if the allocation is*
16 *proposed to be used in that current fiscal year.*

17 *(3) If notice of federal approval of retroactive implementation*
18 *of the assessment is received by the Director of Finance after May*
19 *10 and before January 1 of any year, the Director of Finance shall*
20 *notify the Joint Legislative Budget Committee at least 30 days*
21 *prior to allocating any of those funds, for a purpose authorized*
22 *by this section, if the allocation is proposed to be used in the*
23 *current fiscal year.*

24 *(g) Notwithstanding Section 13340 of the Government Code,*
25 *when the requirements of subdivision (f) have been met, the moneys*
26 *in the fund are continuously appropriated to the State Department*
27 *of Social Services for the purposes of this section.*

28 SEC. 5. Section 12301.05 is added to the Welfare and
29 Institutions Code, to read:

30 12301.05. It is the intent of the Legislature to enact legislation
31 in 2013 to authorize an assessment on home care services,
32 including, but not limited to, home health care and in-home
33 supportive services, consistent with the settlement agreement
34 pertaining to Oster v. Lightbourne, N.D. Cal., Case No.
35 CV09-04668 CW, U.S. Court of Appeals for the Ninth Circuit,
36 Case No. 12-15366, and Dominguez v. Brown, N.D. Cal., Case
37 No. CV 09-02306 CW, U.S. Court of Appeals for the Ninth Circuit,
38 Case No. 09-16359.

39 SEC. 6. Section 12301.07 of the Welfare and Institutions Code
40 is repealed.

SEC. 7. Section 12306.1 of the Welfare and Institutions Code, as amended by Section 39 of Chapter 439 of the Statutes of 2012, is amended to read:

12306.1. (a) When any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium under Section 12301.6, then the county shall use county-only funds to fund both the county share and the state share, including employment taxes, of any increase in the cost of the program, unless otherwise provided for in the annual Budget Act or appropriated by statute. No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Care Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act, and unless and until all of the following conditions have been met:

(1) Each county has provided the department with documentation of the approval of the county board of supervisors of the proposed public authority or nonprofit consortium rate, including wages and related expenditures. The documentation shall be received by the department before the department and the State Department of Health Care Services may approve the increase.

(2) Each county has met department guidelines and regulatory requirements as a condition of receiving state participation in the rate.

(b) Any rate approved pursuant to subdivision (a) shall take effect commencing on the first day of the month subsequent to the month in which final approval is received from the department. The department may grant approval on a conditional basis, subject to the availability of funding.

(c) The state shall pay 65 percent, and each county shall pay 35 percent, of the nonfederal share of wage and benefit increases negotiated by a public authority or nonprofit consortium pursuant to Section 12301.6 and associated employment taxes, only in accordance with subdivisions (d) to (f), inclusive.

(d) (1) The state shall participate as provided in subdivision (c) in wages up to seven dollars and fifty cents (\$7.50) per hour and individual health benefits up to sixty cents (\$0.60) per hour for all

public authority or nonprofit consortium providers. This paragraph shall be operative for the 2000–01 fiscal year and each year thereafter unless otherwise provided in paragraphs (2), (3), (4), and (5), and without regard to when the wage and benefit increase becomes effective.

(2) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to nine dollars and ten cents (\$9.10) per hour, if wages have reached at least seven dollars and fifty cents (\$7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the nine dollars and ten cents (\$9.10) per hour shall be used to fund wage increases above seven dollars and fifty cents (\$7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative for the 2001–02 fiscal year and each fiscal year thereafter, unless otherwise provided in paragraphs (3), (4), and (5).

(3) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to ten dollars and ten cents (\$10.10) per hour, if wages have reached at least seven dollars and fifty cents (\$7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the ten dollars and ten cents (\$10.10) per hour shall be used to fund wage increases above seven dollars and fifty cents (\$7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenue, excluding transfers, for the year in which paragraph (2) became operative.

(4) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to eleven dollars and ten cents (\$11.10) per hour, if wages have reached at least seven dollars and fifty cents (\$7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the eleven dollars and ten cents (\$11.10) per hour shall be used to fund wage increases or individual health benefits, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue,

1 excluding transfers, exceeds by at least 5 percent, the most current
2 estimate of revenues, excluding transfers, for the year in which
3 paragraph (3) became operative.

4 (5) The state shall participate as provided in subdivision (c) in
5 a total cost of wages and individual health benefits up to twelve
6 dollars and ten cents (\$12.10) per hour, if wages have reached at
7 least seven dollars and fifty cents (\$7.50) per hour. Counties shall
8 determine, pursuant to the collective bargaining process provided
9 for in subdivision (c) of Section 12301.6, what portion of the
10 twelve dollars and ten cents (\$12.10) per hour shall be used to fund
11 wage increases above seven dollars and fifty cents (\$7.50) per hour
12 or individual health benefit increases, or both. This paragraph shall
13 be operative commencing with the next state fiscal year for which
14 the May Revision forecast of General Fund revenue, excluding
15 transfers, exceeds by at least 5 percent, the most current estimate
16 of revenues, excluding transfers, for the year in which paragraph
17 (4) became operative.

18 (e) (1) On or before May 14 immediately prior to the fiscal
19 year for which state participation is provided under paragraphs (2)
20 to (5), inclusive, of subdivision (d), the Director of Finance shall
21 certify to the Governor, the appropriate committees of the
22 Legislature, and the department that the condition for each
23 subdivision to become operative has been met.

24 (2) For purposes of certifications under paragraph (1), the
25 General Fund revenue forecast, excluding transfers, that is used
26 for the relevant fiscal year shall be calculated in a manner that is
27 consistent with the definition of General Fund revenues, excluding
28 transfers, that was used by the Department of Finance in the
29 2000–01 Governor’s Budget revenue forecast as reflected on
30 Schedule 8 of the Governor’s Budget.

31 (f) Any increase in overall state participation in wage and benefit
32 increases under paragraphs (2) to (5), inclusive, of subdivision (d),
33 shall be limited to a wage and benefit increase of one dollar (\$1)
34 per hour with respect to any fiscal year. With respect to actual
35 changes in specific wages and health benefits negotiated through
36 the collective bargaining process, the state shall participate in the
37 costs, as approved in subdivision (c), up to the maximum levels
38 as provided under paragraphs (2) to (5), inclusive, of subdivision
39 (d).

1 (g) For the period during which Section 12306.15 is operative,
2 each county's share of the costs of negotiated wage and benefit
3 increases specified in subdivision (c) shall remain, but the County
4 IHSS Maintenance of Effort pursuant to Section 12306.15 shall
5 be in lieu of that share.

6 (h) This section shall become inoperative only if Chapter 45 of
7 the Statutes of 2012 is deemed inoperative pursuant to Section 15
8 of that chapter.

9 SEC. 8. Section 12306.1 of the Welfare and Institutions Code,
10 as amended by Section 38 of Chapter 439 of the Statutes of 2012,
11 is amended to read:

12 12306.1. (a) When any increase in provider wages or benefits
13 is negotiated or agreed to by a public authority or nonprofit
14 consortium under Section 12301.6, then the county shall use
15 county-only funds to fund both the county share and the state share,
16 including employment taxes, of any increase in the cost of the
17 program, unless otherwise provided for in the annual Budget Act
18 or appropriated by statute. No increase in wages or benefits
19 negotiated or agreed to pursuant to this section shall take effect
20 unless and until, prior to its implementation, the department has
21 obtained the approval of the State Department of Health Care
22 Services for the increase pursuant to a determination that it is
23 consistent with federal law and to ensure federal financial
24 participation for the services under Title XIX of the federal Social
25 Security Act, and unless and until all of the following conditions
26 have been met:

27 (1) Each county has provided the department with
28 documentation of the approval of the county board of supervisors
29 of the proposed public authority or nonprofit consortium rate,
30 including wages and related expenditures. The documentation shall
31 be received by the department before the department and the State
32 Department of Health Care Services may approve the increase.

33 (2) Each county has met department guidelines and regulatory
34 requirements as a condition of receiving state participation in the
35 rate.

36 (b) Any rate approved pursuant to subdivision (a) shall take
37 effect commencing on the first day of the month subsequent to the
38 month in which final approval is received from the department.
39 The department may grant approval on a conditional basis, subject
40 to the availability of funding.

(c) The state shall pay 65 percent, and each county shall pay 35 percent, of the nonfederal share of wage and benefit increases negotiated by a public authority or nonprofit consortium pursuant to Section 12301.6 and associated employment taxes, only in accordance with subdivisions (d) to (f), inclusive.

(d) (1) The state shall participate as provided in subdivision (c) in wages up to seven dollars and fifty cents (\$7.50) per hour and individual health benefits up to sixty cents (\$0.60) per hour for all public authority or nonprofit consortium providers. This paragraph shall be operative for the 2000–01 fiscal year and each year thereafter unless otherwise provided in paragraphs (2), (3), (4), and (5), and without regard to when the wage and benefit increase becomes effective.

(2) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to nine dollars and ten cents (\$9.10) per hour, if wages have reached at least seven dollars and fifty cents (\$7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the nine dollars and ten cents (\$9.10) per hour shall be used to fund wage increases above seven dollars and fifty cents (\$7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative for the 2001–02 fiscal year and each fiscal year thereafter, unless otherwise provided in paragraphs (3), (4), and (5).

(3) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to ten dollars and ten cents (\$10.10) per hour, if wages have reached at least seven dollars and fifty cents (\$7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the ten dollars and ten cents (\$10.10) per hour shall be used to fund wage increases above seven dollars and fifty cents (\$7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenue, excluding transfers, for the year in which paragraph (2) became operative.

(4) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to eleven dollars

1 and ten cents (\$11.10) per hour, if wages have reached at least
2 seven dollars and fifty cents (\$7.50) per hour. Counties shall
3 determine, pursuant to the collective bargaining process provided
4 for in subdivision (c) of Section 12301.6, what portion of the eleven
5 dollars and ten cents (\$11.10) per hour shall be used to fund wage
6 increases or individual health benefits, or both. This paragraph
7 shall be operative commencing with the next state fiscal year for
8 which the May Revision forecast of General Fund revenue,
9 excluding transfers, exceeds by at least 5 percent, the most current
10 estimate of revenues, excluding transfers, for the year in which
11 paragraph (3) became operative.

12 (5) The state shall participate as provided in subdivision (c) in
13 a total cost of wages and individual health benefits up to twelve
14 dollars and ten cents (\$12.10) per hour, if wages have reached at
15 least seven dollars and fifty cents (\$7.50) per hour. Counties shall
16 determine, pursuant to the collective bargaining process provided
17 for in subdivision (c) of Section 12301.6, what portion of the
18 twelve dollars and ten cents (\$12.10) per hour shall be used to fund
19 wage increases above seven dollars and fifty cents (\$7.50) per hour
20 or individual health benefit increases, or both. This paragraph shall
21 be operative commencing with the next state fiscal year for which
22 the May Revision forecast of General Fund revenue, excluding
23 transfers, exceeds by at least 5 percent, the most current estimate
24 of revenues, excluding transfers, for the year in which paragraph
25 (4) became operative.

26 (e) (1) On or before May 14 immediately prior to the fiscal
27 year for which state participation is provided under paragraphs (2)
28 to (5), inclusive, of subdivision (d), the Director of Finance shall
29 certify to the Governor, the appropriate committees of the
30 Legislature, and the department that the condition for each
31 subdivision to become operative has been met.

32 (2) For purposes of certifications under paragraph (1), the
33 General Fund revenue forecast, excluding transfers, that is used
34 for the relevant fiscal year shall be calculated in a manner that is
35 consistent with the definition of General Fund revenues, excluding
36 transfers, that was used by the Department of Finance in the
37 2000–01 Governor’s Budget revenue forecast as reflected on
38 Schedule 8 of the Governor’s Budget.

39 (f) Any increase in overall state participation in wage and benefit
40 increases under paragraphs (2) to (5), inclusive, of subdivision (d),

1 shall be limited to a wage and benefit increase of one dollar (\$1)
2 per hour with respect to any fiscal year. With respect to actual
3 changes in specific wages and health benefits negotiated through
4 the collective bargaining process, the state shall participate in the
5 costs, as approved in subdivision (c), up to the maximum levels
6 as provided under paragraphs (2) to (5), inclusive, of subdivision
7 (d).

8 (g) This section shall become operative only if Chapter 45 of
9 the Statutes of 2012 is deemed inoperative pursuant to Section 15
10 of that chapter.

11 SEC. 9. Section 12309 of the Welfare and Institutions Code is
12 amended to read:

13 12309. (a) In order to assure that in-home supportive services
14 are delivered in all counties in a uniform manner, the department
15 shall develop a uniform needs assessment tool.

16 (b) (1) Each county shall, in administering this article, use the
17 uniform needs assessment tool developed pursuant to subdivision
18 (a) in collecting and evaluating information.

19 (2) For purposes of paragraph (1), “information” includes, but
20 is not limited to, all of the following:

21 (A) The recipient’s living environment.

22 (B) Alternative resources.

23 (C) The recipient’s functional abilities.

24 (c) (1) The uniform needs assessment tool developed pursuant
25 to subdivision (a) shall evaluate the recipient’s functioning in
26 activities of daily living and instrumental activities of daily living.

27 (2) The recipient’s functioning shall be quantified, using the
28 general hierarchical five-point scale for ranking each function, as
29 specified in subdivision (d).

30 (d) The recipient’s functioning ranks shall be as follows:

31 (1) Rank one. A recipient’s functioning shall be classified as
32 rank one if his or her functioning is independent, and he or she is
33 able to perform the function without human assistance, although
34 the recipient may have difficulty in performing the function, but
35 the completion of the function, with or without a device or mobility
36 aid, poses no substantial risk to his or her safety.

37 (2) Rank two. A recipient’s functioning shall be classified as
38 rank two if he or she is able to perform a function, but needs verbal
39 assistance, such as reminding, guidance, or encouragement.

1 (3) Rank three. A recipient's functioning shall be classified as
2 rank three if he or she can perform the function with some human
3 assistance, including, but not limited to, direct physical assistance
4 from a provider.

5 (4) Rank four. A recipient's functioning shall be classified as
6 rank four if he or she can perform a function, but only with
7 substantial human assistance.

8 (5) Rank five. A recipient's functioning shall be classified as
9 rank five if he or she cannot perform the function, with or without
10 human assistance.

11 SEC. 10. Section 12309.2 of the Welfare and Institutions Code
12 is repealed.

13 SEC. 11. (a) Notwithstanding the rulemaking provisions of
14 the Administrative Procedure Act (Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
16 Code), the State Department of Social Services and the State
17 Department of Health Care Services may implement and administer
18 this act through all-county letters or similar instruction from their
19 respective departments until regulations are adopted. Each
20 department shall adopt emergency regulations implementing this
21 ~~section~~ act no later than July 1, 2015. Each department may readopt
22 any emergency regulation authorized by this section that is the
23 same as or substantially equivalent to an emergency regulation
24 previously adopted under this section.

25 (b) For each department identified in subdivision (a), the initial
26 adoption of emergency regulations implementing this act and one
27 readoption of emergency regulations authorized by this ~~subdivision~~
28 ~~section~~ shall be deemed an emergency and necessary for the
29 immediate preservation of the public peace, health, safety, or
30 general welfare. Initial emergency regulations and the one
31 readoption of emergency regulations authorized by this section
32 shall be exempt from review by the Office of Administrative Law.
33 The initial emergency regulations and the one readoption of
34 emergency regulations authorized by this section shall be submitted
35 to the Office of Administrative Law for filing with the Secretary
36 of State and each shall remain in effect for no more than 180 days,
37 by which time final regulations may be adopted.

38 SEC. 12. The amount of one thousand dollars (\$1,000) is
39 hereby appropriated from the General Fund to the State Department

1 of Social Services for its administrative costs during the 2013–14
2 fiscal year.
3 SEC. 13. This act is a bill providing for appropriations related
4 to the Budget Bill within the meaning of subdivision (e) of Section
5 12 of Article IV of the California Constitution, has been identified
6 as related to the budget in the Budget Bill, and shall take effect
7 immediately.

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